

SEP 08 2006

Application No. 09/936,840

Docket No. 741890-18

Page 6

REMARKS

The following remarks are submitted to be fully responsive to the Official Action of May 8, 2006. Reconsideration of this application in light of the remarks and the allowance of this application are respectfully requested.

Claims 1 and 6-13 were pending in the present application prior to the above Amendments, claims 2-5 having been previously canceled. Claims 1 and 6-12 have also been withdrawn as being directed to a non-elected species. In addition, in response to the Office Action, claim 13 has been amended above.

Referring now to the Office Action, the Examiner objected to the specification, noting that there an Abstract and appropriate headings are missing. In response thereto, amendments to the specification are submitted above to add an Abstract and the requested headings. Therefore, acceptance of the specification is respectfully requested.

Referring again to the Office Action, claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,366,478 to Brinkerhoff et al. in view of U.S. Patent No. 5,906,577 to Beane et al. The Examiner asserts that the surgical device shown in Fig. 3 of Brinkerhoff et al. discloses all of the limitations of the present invention recited in claim 13, except for the toroid cell that comprises a bladder filled with a liquid or a gel. Thus, the Examiner cites Beane et al. as teaching a sealing device that includes a bladder filled with a liquid or a gel, and asserts that it would have been obvious to one of ordinary skill to modify the surgical device disclosed in Brinkerhoff et al. to provide a toroid cell that includes a bladder filled with a liquid or a gel.

In response thereto, independent claim 13 has been amended above to specifically recite that the toroid cell comprises a sealed, non-inflating bladder which is entirely filled with a liquid or a gel to prevent substantial leakage of gas from the body cavity on inflation of the body cavity when the sealing means is in an inoperative position. As explained in the specification and apparent to one of ordinary skill in the art, the toroid cell of the surgical device in accordance with the present invention is not inflatable, and the inflation that is referred in claim 13 is that of the body cavity of the patient, and not the surgical device. In this regard, the specification of the present application discusses the various disadvantages of air inflatable devices such as that disclosed in Brinkerhoff et al. as well as Beane et al. (See

Application No. 09/936,840
Docket No. 741890-18
Page 7

Pg. 5, lines 9-11). In particular, use of a toroid cell filled with liquid improves hygiene around the wound and responds more quickly to a movement by a surgeon's hand. In addition, the surgical device of the present invention overcomes problems associated with inflatable bladders such as those disclosed in Brinkerhoff et al. as well as Beane et al. which will leak air if under inflated, or be overly restrictive to movements of the surgeon's hand if over inflated.

In this regard, the bladder of the present invention is described as being sealed and is illustrated as being filled with the liquid or gel. (See Pg. 5, lines 6-9 and Figs. 2 and 3). Importantly, as clearly shown in Figs. 2 and 3, the recited sealing means prevents substantial leakage of the gas from the body cavity when the sealing means is in an inoperative position. This is in stark contrast to the surgical devices disclosed in both Brinkerhoff et al. and Beane et al. which does not seal when in the inoperative position, i.e. non-inflated position. Thus, the surgical device as disclosed in the prior art references Brinkerhoff et al. and Beane et al. both require the surgical devices to be in operation (i.e. inflated) in order to provide the requisite sealing of the body cavity.

Correspondingly, even if a surgical device disclosed in Brinkerhoff et al. is modified in the manner suggested by the Examiner to incorporate the features of Beane et al., such combination still fails to result in the surgical device as now claimed. Correspondingly, the withdrawal of this rejection and the allowance of claim 13, are respectfully requested.

Application No. 09/936,840
Docket No. 741890-18
Page 8

In view of the foregoing, it is submitted that the present application is in condition for allowance and a notice to that effect is respectfully requested. However, if the Examiner deems that any issue remains after considering this response, he is invited to call the undersigned to expedite the prosecution and work out any such issue by telephone.

Respectfully submitted,



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